



City of Marietta

205 Lawrence Street
Post Office Box 609
Marietta, Georgia 30061

Meeting Minutes CITY COUNCIL

R. Steve Tumlin, Mayor
Annette Paige Lewis, Ward 1
Griffin "Grif" L. Chalfant, Jr., Ward 2
Johnny Sinclair, Ward 3
G. A. (Andy) Morris, Ward 4
Rev. Anthony C. Coleman, Ward 5
James W. King, Ward 6
Philip M. Goldstein, Ward 7

Wednesday, January 9, 2013

7:00 PM

Council Chamber

Presiding: R. Steve Tumlin, Mayor

Present: Annette Lewis, Grif Chalfant, Johnny Sinclair, G. A. (Andy) Morris,
Rev. Anthony Coleman, Jim King, and Philip M. Goldstein

Also Present:

William F. Bruton, Jr. City Manager

Daniel White, Assistant City Attorney

Stephanie Guy, City Clerk

CALL TO ORDER:

Mayor R. Steve Tumlin called the meeting to order at 7:01 p.m.

INVOCATION:

Mayor Tumlin called upon Council member Philip M. Goldstein to give the invocation.

PLEDGE OF ALLEGIANCE:

Mayor Tumlin asked everyone to remain standing for the pledge of allegiance.

PRESENTATIONS:

PROCLAMATIONS:

ANNOUNCEMENTS OF GENERAL COMMUNITY INFORMATION BY THE MAYOR, COUNCIL AND/OR CITY MANAGER:

SCHEDULED APPEARANCES:

20121195 Scheduled Appearance - Patti Pearlberg

Patti Pearlberg to speak regarding traffic and problems in the Church Cherokee district.

Present

20121196 Scheduled Appearance - Jeff Gehlbach

Jeff Gehlbach, resident on Cherokee, to speak and present a power point presentation regarding issues at Church Cherokee district.

Present

20121306 Scheduled Appearance - William Harvin

William Harvin speaking to Council about Code of Ordinances, Chapter 9-8 - Parades and Demonstrations and how it relates to picketing.

Present

UNSCHEDULED APPEARANCES:

Robert Sandstead, who resides at 400 Church Street, expressed concern regarding traffic and speeding in the Church Cherokee district.

Ben Mahalski, who resides at 5301 Vinings Lakeview in Mableton, expressed concern regarding the restrictions related to the permit issued for picketing.

Chris Brown, who resides at 429 Cherokee Street, also expressed concern regarding traffic and speeding in the Church Cherokee district.

Charles Livingston, who resides at 677 Kiowa Drive, expressed concern regarding the reapportionment map approved last month.

CONSENT AGENDA: Consent agenda items are marked by an asterisk (*). Consent items are approved by majority of council. A public hearing will be held only for those items marked by an asterisk that require a public hearing (also noted on agenda).

Mayor Pro tem, Grif Chalfant, called upon Council member Johnny Sinclair, to preside over this portion of the meeting. Council member Sinclair briefly explained the consent agenda process.

-under Ordinances: Agenda item 20121184, Z2013-03 Jonathan C. Pascoe 238 Crescent Circle, was added to the consent agenda as a motion to table.

-under Other Business: Agenda items 20130071 and 20130072 were added to the

consent agenda for approval, with Council member Goldstein abstaining.

Assistant City Attorney Daniel White noted that there were no items on the consent agenda requiring a public hearing.

A motion was made by Council member Coleman, seconded by Council member Chalfant, to approve the consent agenda as modified. The motion carried by the following vote:

Vote: 7 - 0 - 0

Approved

with the following exceptions:

Council member Goldstein abstaining on agenda items 20130071 and 20130072.

Council member King voting against agenda item 20121254.

Council member Morris abstaining on agenda item 20130069.

MINUTES:

*** 20130015 Regular Meeting - December 12, 2012**

Review and approval of the December 12, 2012 regular meeting minutes.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0

Approved

MAYOR'S APPOINTMENTS:

*** 20130024 Municipal Judge**

Reappointment of Roger J. Rozen as the Marietta Municipal Chief Judge.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0

Approved

*** 20130053 Municipal Associate Judges**

Reappointment of the following Municipal Associate Judges:

Lawrence E. Burke

Phyllis Gingrey Collins

Mazi Mazloom

John Storey Morgan

Robert F. Schnatmeir

Melinda Taylor

Nathan Wade

Steve Yaklin

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0

Approved

MAYOR'S APPOINTMENTS WITH THE CONSENT OF COUNCIL:**Mayor Pro tem***** 20130026**

Appointment of G. A. (Andy) Morris as Mayor Pro tem for a term of one year expiring on January 8, 2014.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0

Approved

Presiding Officer*** 20130027**

Appointment of Annette Lewis as Presiding Officer for a term of one year expiring on January 8, 2014.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0

Approved

Economic/Community Development Committee*** 20130028**

Appointment of the Economic/Community Development Committee: Griffin Lee Chalfant, Jr., as Chairman, John V. Sinclair and Rev. Anthony Coleman for a term of one year expiring on January 8, 2014.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0

Approved

Finance/Investments Committee*** 20130029**

Appointment of the Finance/Investments Committee: Annette Paige Lewis as Chairman, James W. King and Philip M. Goldstein for a term of one year expiring on January 8, 2014.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0

Approved

Judicial/Legislative Committee*** 20130030**

Appointment of the Judicial/Legislative Committee: Philip M. Goldstein as Chairman, James W. King and G. A. (Andy) Morris for a term of one year expiring on January 8, 2014.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0

Approved

* 20130031 Parks, Recreation & Tourism Committee

Appointment of the Parks, Recreation and Tourism Committee: John V. Sinclair as Chairman, Annette Paige Lewis and Rev. Anthony Coleman for a term of one year expiring on January 8, 2014.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0 **Approved**

* 20130032 Personnel/Insurance Committee

Appointment of the Personnel/Insurance Committee: G. A. (Andy) Morris as Chairman, Philip M. Goldstein and Griffin Lee Chalfant, Jr. for a term of one year expiring on January 8, 2014.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0 **Approved**

* **20130033** **Public Safety Committee**

Appointment of the Public Safety Committee: Rev. Anthony Coleman as Chairman, G. A. (Andy) Morris and John V. Sinclair for a term of one year expiring on January 8, 2014.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0 **Approved**

* 20130034 Public Works Committee

Appointment of the Public Works Committee: James W. King as Chairman, Griffin Lee Chalfant, Jr., and Annette Paige Lewis for a term of one year expiring on January 8, 2014.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0 **Approved**

* 20130067	Appointment of Vice Chairs to serve on committees
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Appointment of Council Member Grif Chalfant to serve as Vice Chair for the Public Works Committee.

Appointment of Council Member Andy Morris to serve as Vice Chair for the Judicial Legislative Committee.

Appointment of Council Member Annette Lewis to serve as Vice Chair for the Parks, Recreation and Tourism Committee.

Appointment of Council Member Johnny Sinclair to serve as Vice Chair for the Public Safety Committee.

Appointment of Council Member Philip Goldstein to serve as Vice Chair for the Personnel and Insurance Committee.

Appointment of Council Member Anthony Coleman to serve as Vice Chair for the Economic and Community Development Committee.

Appointment of Council Member Jim King to serve as Vice Chair for the Finance and Investments Committee.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0

Approved

* **20130035**

BLW Council Representative

Appointment of Johnny Sinclair the Board of Lights and Water (BLW) representative for a term of one year expiring on January 8, 2014.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0

Approved

* **20130036**

Marietta Board of Education Council Liaison

Appointment of Annette Paige Lewis as the Marietta Board of Education liaison for a one year term expiring on January 8, 2014.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0

Approved

* **20130037**

Marietta Housing Authority Council Liaison

Appointment of Rev. Anthony Coleman as the Marietta Housing Authority liaison for a term of one year expiring on January 8, 2014.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0

Approved

* **20130065**

Cobb/Douglas Board of Public Health

Appointment of Annette Lewis to Cobb/Douglas Board of Public Health, for a one year term expiring 12/31/13.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0

Approved

* **20130025 City Prosecutor**

Appointment of Robert I. Donovan as the City Prosecutor to serve at the pleasure of and upon the concurrence of the Mayor and a majority of City Council.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0 Approved

* **20130054 Associate City Prosecutors**

Reappointment of the following Associate City Prosecutors to serve at the pleasure of and upon the concurrence of the Mayor and a majority of City Council:

Susan M. Miller
Carmen Porreca
Thomas Griner
Jason Treadway
Latonia Patrice Hines

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0 Approved

* **20130052 Liaison Appointments**

Consideration of council liaison appointments as designated:

Higher Education (Life, Southern Poly, Chattahoochee) - Griffin L. Chalfant, Jr.
Wellstar/Medical Community - Andy Morris
Lockheed/Military - James W. King
Faith Based Community - Rev. Anthony Coleman
Chamber/Marietta Division - John Sinclair
Student Leadership Councils - Annette Paige Lewis
Green Tech Corridor - James W. King
School Governance Teams (SGT) for Marietta High School - Philip M. Goldstein
Legislative-Steve Tumlin (new liaison if approved)
Fair Oaks Park and adjacent community-John V. Sinclair (new liaison if approved)

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0 Approved

CITY COUNCIL APPOINTMENTS:

* **20121284 Marietta Historic Board of Review Appointments**

Reappointment of David Freedman (Ward 2), Carrie Walker (Ward 3), Ray Worden (Ward 4), and Johnny M. Walker (Mayor Appointment) to the Historic Board of Review for a two (2) year term, expiring January 8, 2015.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0 Approved

*** 20130070 Marietta Historic Board of Review Appointments**

Reappointment of Terry Lee (Ward 5) to the Historic Board of Review for a one (1) year term, expiring January 8, 2014.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0 Approved

*** 20121285 Historic Preservation Commission Appointment**

Appointment of Marion Savic to the Historic Preservation Commission (Ward 3), for a three (3) year term expiring January 9, 2016.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0 Approved

*** 20121253 Cobb Municipal Association (CMA) 2013 Delegates**

Appointment of Grif Chalfant and Philip M. Goldstein to the 2013 voting delegates for the Cobb Municipal Association (CMA) business meetings.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0 Approved

*** 20130068 Board of Zoning Appeals Appointment**

Appointment of Justice Kay Barber to the Board of Zoning Appeals (Ward 7) for a three year term, expiring January 8, 2016.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0 Approved

*** 20130069 Welcome Center Appointment**

Reappointment of Philip M. Goldstein to the Marietta Welcome Center and Visitors Bureau for a two year term expiring on January 8, 2015.

This Matter was Approved on the Consent Agenda.

Vote: 6 - 0 – 1 Approved

Abstaining: G. A. (Andy) Morris

ORDINANCES:**20121182 Z2013-01 VIML, INC 803 & 807 Cobb Parkway North****Ord 7633**

Z2013-01 [REZONING] VIML, INC requests rezoning for property located in Land Lot 10720, District 16, Parcels 0440 & 0010, 2nd Section, Marietta, Cobb County, Georgia and being known as 803 & 807 Cobb Parkway North from R-3 (Single Family Residential - 3 units/acre) and R-2 (Single Family Residential - 2 units/acre) to CRC (Community Retail Commercial). Ward 5.

Mayor Tumlin opened the public hearing. Assistant City Attorney Daniel White explained the rules of order and swore in those wishing to speak.

The applicant requested rezoning for property located at 803 and 807 Cobb Parkway North from R-3 (Single Family Residential - 3 units/acre) and R-2 (Single Family Residential - 2 units/acre) to CRC (Community Retail Commercial). Development Services Director, Brian Binzer, mentioned that this was the only property in the surrounding area not zoned CRC.

Discussion was held regarding the survey that indicated the current developed property for which the variances would be approved.

Mayor Tumlin closed the public hearing.

A motion was made by Council member Coleman, seconded by Council member Goldstein, that this matter be approved. The motion carried by the following vote:

Vote: 7 - 0 - 0

Approved

20121183 Z2013-02 SFOG Acquisition Company, LLC 236 Cobb Parkway North**Ord 7634**

Z2013-02 [REZONING] SFOG ACQUISITION COMPANY, LLC requests rezoning for property located in Land Lot 11660, District 16, Parcel 0080, 2nd Section, Marietta, Cobb County, Georgia and being known as 236 Cobb Parkway North from LI (Light Industrial) to RRC (Regional Retail Commercial). Ward 6.

Mayor Tumlin opened the public hearing. Assistant City Attorney Daniel White swore in those wishing to speak.

Jeff Brewer of Brewer Engineering requested rezoning for property known as 236 Cobb Parkway North owned by Six Flags over Georgia. A zoning discrepancy was found during the permit process for the location of a replacement water slide. Mr. Brewer explained that the issue would be resolved if the property is rezoned from LI (Light Industrial) to RRC (Regional Retail Commercial), the same zoning classification as the rest of the park. The rezoning would also allow for the construction of a new water slide on the site.

Discussion was held regarding the size and height of the water slide. Mr. Brewer presented a diagram showing the proposed water slide as it relates to the rest of the Water Park and adjacent property.

Ellen Smith, representing the White Water Business Park, expressed concern regarding the visibility and noise of the slide, which would be seen and heard from the adjacent property.

Further discussion was held.

Mayor Tumlin asked to recess the public hearing in order to hold an Appeal Hearing scheduled to begin at 8:15 p.m. It was suggested that the applicant work with Mrs. Smith to possibly address her concerns.

The public hearing was recessed.

(This matter continued on page 13 of the minutes.)

*** 20121184 Z2013-03 Jonathan C. Pascoe 238 Crescent Circle**

Z2013-03 [REZONING] JONATHAN C. PASCOE requests rezoning for property located in Land Lot 12310, District 16, Parcel 0290, 2nd Section, Marietta, Cobb County, Georgia and being known as 238 Crescent Circle from OI (Office Institutional) to R-4 (Single Family Residential - 4 units/acre). Ward 3.

Motion to table this matter until the next City Council regular meeting.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0

Tabled

RESOLUTIONS:

CITY ATTORNEY'S REPORT:

CITY MANAGER'S REPORT:

MAYOR'S REPORT:

COMMITTEE REPORTS:

1. Economic/Community Development: Grif Chalfant, Chairperson

2. Finance/Investment: Annette Lewis, Chairperson

*** 20121283 Donation for Joe Mack Wilson Park**

[Ord 7631](#)

Approval of an Ordinance amending the Fiscal Year 2013 Parks and Recreation Fund budget to appropriate a donation previously received from the Marietta Kiwanis Club for a marker to be placed at Joe Mack Wilson Park.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0

Approved

* **20121254 National League of Cities (NLC)**

Motion approving travel and training for Mayor and Council members who wish to attend the National League of Cities (NLC) Congressional City Conference in Washington, DC, March 9-13, 2013.

This Matter was Approved on the Consent Agenda.

Vote: 6 - 1 – 0 Approved

Voting Against: Jim King

3. Judicial/Legislative: Philip M. Goldstein, Chairperson

* **20121239 City of Marietta 2013 General Election**

[Ord 7628](#)

Ordinance to provide for the establishment of qualifying fees for the office of Mayor and the office of Council for the city of Marietta, Georgia and to provide for the opening and closing dates for filing notice of candidacy by candidates.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0 Approved

4. Parks, Recreation and Tourism: Johnny Sinclair, Chairperson

* **20121279 Motion authorizing street closures for the 2013 calendar year to operate the Marietta Square Farmer's Market as requested by the Downtown Marietta Development Authority as follows:**

Saturday closure of Mill St:

January 5, 2013 to March 30, 2013 From 7 a.m. to 2 p.m.

Saturday closure of North Park Square:

April 6, 2013 to November 23, 2013 From 7 a.m. to 2 p.m.

Saturday closure of Mill St:

November 30, 2013 to December 21, 2013 From 7 a.m. to 2 p.m.

Sunday closure of Mill St:

April 7, 2013 to November 24, 2013 From 12 noon to 5 p.m.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0 Approved

5. Personnel/Insurance: G. A. (Andy) Morris, Chairperson

20121185 Appeal of Pension Board decision

Appeal Hearing of a pension board decision as requested by Gwendolyn Carson. (council expressed a desire to hold this hearing at 8:15 PM if possible)

Mayor Tumlin called forward those wishing to speak regarding this matter.

Assistant City Attorney Daniel White explained the appeals process regarding the decision of the pension board. For the record, Mr. White read Article X, Section 4 of the Code regarding this matter. (Code Section 4-12-6-010 - Exhibit B to Chapter 4-12)

Section 4: Appeals and Procedure

Any person dissatisfied with any decision of the pension board shall have the right to appeal the decision to the council by delivering to the city manager a written notice within ten days of the decision complained of. The city manager shall cause the secretary of the pension board, within ten days after such receipt, to provide to the clerk of the council all documents relied upon by the pension board in reaching its decision. The council shall decide the appeal within 75 days of receipt of the appeal documents from the secretary of the pension board. Should the council fail to act within 75 days of the decision of the pension board, the decision of the pension board shall be affirmed. In ruling on any appeal from the pension board, the decision of the pension board shall be presumed correct and based upon sufficient facts to sustain it.

Acting Personnel Director Shannon Barrett gave an overview of events leading up to the appeal hearing requested by Mrs. Gwendolyn Carson. She also introduced the documents considered by the pension board in reaching its decision to deny the application for disability benefits.

City Attorney Daniel White stated for the record that members of council who also serve on the pension board would be allowed to participate in the discussion and the final decision of council.

Mrs. Gwendolyn Carson made a presentation to council requesting reinstatement of her disability benefits. As stated in the written notice of appeal, Mrs. Carson believes she has met the necessary requirements to have her disability benefits reinstated based on Article V, Eligibility for Benefits and Amounts, Section 13, Evidence of disability, and Section 15, Successive period of disability. (Code Section 4-12-6-010 - Exhibit B to Chapter 4-12)

Mr. Read Gignilliat with Elarbee, Thompson, Sapp and Wilson, labor and employment counsel for the City, spoke on behalf of the pension board regarding its decision to deny the application for disability benefits. Mr. Gignilliat stated again that in ruling on any appeal from the pension board, the decision of the pension board shall be presumed correct and based upon sufficient facts to sustain it. At the time of the denial, the pension board determined that Mrs. Carson did not meet the necessary requirement to have the disability benefits to continue.

Discussion was held regarding the documents and evidence presented to council and relied upon by the pension board in reaching its decision. Council asked questions about seeing additional documents that the pension board had reviewed previously, but were not a part of the record on the day the decision was made. Council was informed that those documents could not be reviewed.

Discussion was also held regarding the need and appropriateness of an executive session for further deliberation. It was the opinion of the City Attorney that further deliberation may take place in executive session; however, not everyone agreed.

A motion was made by Council member Coleman to enter executive session for legal and/or personnel matters. The motion failed for lack of a second.

In depth discussion was held.

A motion was made by Council member Sinclair, seconded by Council member King, to Overturn the decision of the Pension Board. The motion carried by the following vote:

Vote: 5 - 2 - 0

Approved

20121183

Z2013-02 SFOG Acquisition Company, LLC 236 Cobb Parkway North
rezoning for property located in Land Lot 11660, District 16, Parcel 0080, 2nd Section, Marietta, Cobb County, Georgia and being known as 236 Cobb Parkway North from LI (Light Industrial) to RRC (Regional Retail Commercial).

Mayor Tumlin reconvened the public hearing.

The applicant stated that a compromise has been reached by both parties. The applicant would be willing to build a screen wall along the south side of the stairs and the east side of the tower platform to minimize the visibility and sounds coming from the water side.

Discussion was held. It was suggested that the language of the stipulation be in written form and signed by both parties, if agreed. The location of screen wall should also be shown on the diagram submitted and signed by the applicant.

*The public hearing was recessed.
(This matter continued on page 16 of the minutes.)*

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20121250

FY 2013 City/BLW Allocation Chart

[Ord 7629](#)

Approval of an Ordinance amending the FY 2013 City/BLW pay and classification plans and position allocation chart in order to change the title of Cyber Intelligence Specialist to Police Cyber Specialist.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0

Approved

6. Public Safety Committee: Anthony Coleman, Chairperson

7. Public Works Committee: Jim King, Chairperson

- * **20121271** **No Parking Zones at Waterman and Alexander St**
- Motion to install “No Parking Zone” along Alexander Street, within 200 feet of the intersection with Waterman Street and along Waterman Street on the northern property line of 291 Alexander Street.
- This Matter was Approved on the Consent Agenda.**
- Vote: 7 - 0 – 0** **Approved**
-
- * **20121273** **Fairground Street Improvements C**
- Motion to approve concept design on Fairground Street Improvement C and proceed with preliminary engineering.
- This Matter was Approved on the Consent Agenda.**
- Vote: 7 - 0 – 0** **Approved**
-
- * **20121275** **Off System Safety Project**
- Motion to approve a Project Framework Agreement for Off System Safety Project with the Georgia Department of Transportation for pavement markings on sections of Polk Street, Dodd Street, Gresham Road and Powers Ferry Road.
- This Matter was Approved on the Consent Agenda.**
- Vote: 7 - 0 – 0** **Approved**
-
- * **20121278** **Admin 6 Project - 583 Chickasaw Drive**
- [Ord 7630](#) Approval of an Ordinance amending the Fiscal Year 2013 General Fund Budget to receive and appropriate \$1887 from Josh Howland for an Administrative Policy No. 6 project at 583 Chickasaw Drive.
- This Matter was Approved on the Consent Agenda.**
- Vote: 7 - 0 – 0** **Approved**
-
- * **20121280** **R-O-W Sale - 320 and 340 Lockheed Avenue**
- [Ord 7632](#) Approval of an Ordinance amending the Fiscal Year 2013 budget to receive and appropriate funds from the sale of right-of-way at 320 and 340 Lockheed Avenue to account 110-2031-532-7090 to be used for Gateways/Sidewalks/Beautification of city right-of-way.
- This Matter was Approved on the Consent Agenda.**
- Vote: 7 - 0 – 0** **Approved**

* **20121 281 Powder Springs Street Multi-Use Trail**

Motion to approve a contract between the Georgia Department of Transportation (GDOT) and the City of Marietta for the construction of the Powder Springs Street Multi-Use Trail.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0

Approved

APPEARANCES:

OTHER BUSINESS:

20121181 V2013-01 [VARIANCE] GEORGE A. HUSSEY, IV requests variances for
property located in Land Lot 03600, District 17, Parcel 0240 and being known as
505 South Marietta Parkway.

1. Variance to allow an automotive repair shop operate directly across the street from a single family residential district. §708.16 (B)(7)(c)
2. Variance to reduce the side setback for an accessory structure from 10' to 0.' §708.16 (F)(1)
3. Variance to allow the use of metal siding on the façade of the building facing a roadway. §708.16 (G)(3)
4. Variance to reduce the setback along Grogan Street from 35' to 7.' §708.16 (H)
5. Variance to allow an exterior storage yard along an arterial roadway. §710.07 (A)
6. Variance to allow the open storage of wrecked or nonoperative automobiles. §710.07 (A)(2)
7. Variance to allow the storage of parts or waste materials outside a building. §710.07 (A)(3)
8. Variance to waive all regulations listed under Section 712.09 Commercial Corridor Design Overlay District. §712.09
9. Variance to allow the current trees and landscaping conditions satisfy the requirements of Section 712.08. §712.08

Mayor Tumlin called forward those wishing to speak.

The applicant, George Hussey, requested variances for property located at 505 South Marietta Parkway. The variance would allow for work to continue on the expansion of the building that began in 1999 and make repairs to the roof.

Discussion was held regarding the requested variances.

Several residents from the adjacent neighborhood spoke in opposition to the variance request. The main concerns were the reduced setback requested and the increased activity on the site. Neighbors also felt the expansion of the building would bring additional cars in need of repair and associated noise.

Those speaking in opposition included:

Martin Teem, owner of property at 455, 461 and 463 S Marietta Parkway.

Cheryl Richardson, who resides at 477 Grogan Street.

Sam Elliott, who resides at 521 Grogan Street.

Justin Clark, who resides at 368 Phillips Drive.

Mr. Hussey attempted to address some of the concerns by the residents from the adjacent neighborhood. Further discussion was held regarding the requested variances.

A motion was made by Council member Coleman, seconded by Council member Sinclair, to deny the variance request V2013-01 George Hussey 505 South Marietta Parkway. The motion carried by the following vote:

Vote: 7 - 0 - 0

Denied

20121183

Z2013-02 SFOG Acquisition Company, LLC 236 Cobb Parkway North rezoning for property located in Land Lot 11660, District 16, Parcel 0080, 2nd Section, Marietta, Cobb County, Georgia and being known as 236 Cobb Parkway North from LI (Light Industrial) to RRC (Regional Retail Commercial).

Mayor Tumlin reconvened the public hearing.

Brian Binzer, Development Services Director, presented a signed copy of the stipulation to be incorporated as a condition of zoning.

The stipulation reads, "There shall be a minimum 6 foot high neutral colored solid screen wall along the south side of the stairs to the last landing along the east side of the tower platform as shown on plans C-3.0 and elevation section dated 01-09-13. Applicant shall submit the final design showing screening detail to CCI-B Marietta, LLC for a reasonable approval. Applicant shall provide City of Marietta with a copy of the approval letter from CCI-B Marietta, LLC."

The diagram showing the location of the screen wall, signed by the applicant, was also submitted for consideration.

The public hearing was closed.

A motion was made by Council member King, seconded by Council member Goldstein, that this matter be Approved as Stipulated. The motion carried by the following vote:

Vote: 7 - 0 - 0

Approved as Stipulated

* **20130071 72 Waverly Way**

Motion to authorize the acquisition of property owned by Herbert S. Goldstein on behalf of the City of Marietta by means of eminent domain. A description of the interest to be acquired is attached hereto and incorporated herein by reference, including the legal description of the property and a survey of such property. The city attorney is hereby authorized and directed to take any and all action necessary to acquire such property by virtue of eminent domain, including the right to file any appeals in such case. The Order Authorizing Condemnation attached is incorporated herein by reference.

Council Goldstein discloses that his father owns the above property on Waverly Way.

This Matter was Approved on the Consent Agenda.

Vote: 6 - 0 – 1 Approved
Abstaining: Philip M. Goldstein

* **20130072 91 S. Marietta Parkway**

Motion to authorize the acquisition of property owned by Philip M. Goldstein on behalf of the City of Marietta by means of eminent domain. A description of the interest to be acquired is attached hereto and incorporated herein by reference, including the legal description of the property and a survey of such property. The city attorney is hereby authorized and directed to take any and all action necessary to acquire such property by virtue of eminent domain, including the right to file any appeals in such case. The Order Authorizing Condemnation attached is incorporated herein by reference.

Council member Goldstein disclosed that he owns the above property off of Waverly Way.

This Matter was Approved on the Consent Agenda.

Vote: 6 - 0 – 1 Approved
Abstaining: Philip M. Goldstein

* **20130016 BLW Actions of the January 7, 2013**

Review and approval of the January 7, 2013 actions and minutes of the Marietta Board of Lights and Water.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0 Approved

UNSCHEDULED APPEARANCES:

Addressing Council from the lectern, Mr. Philip M. Goldstein spoke regarding two property acquisitions that appeared on the consent agenda, 20130071, 72 Waverly Way and 20130072, 91 S Marietta Parkway. Both properties are being acquired by the City by means of eminent domain.

ADJOURNMENT:

The meeting was adjourned at 10:07 p.m.

Date Approved: February 13, 2013

With the exception of agenda item 20130069, Welcome Center Appointment (Veto by the Mayor on file in the Clerk's Office.)

R. Steve Tumlin, Mayor

Attest: _____
Stephanie Guy, City Clerk